

UNITED STATES BANKRUPTCY COURT
SOUTHERN DISTRICT OF INDIANA
NEW ALBANY DIVISION

In re:)	Chapter 11
)	
EASTERN LIVESTOCK CO., LLC, et al.,)	Case No. 10-93904-BHL-11
)	
Debtor.)	

**TRUSTEE'S RESPONSE TO MOTIONS TO EXPEDITE HEARING
ON TRUSTEE'S REPORT AND MOTIONS TO STRIKE**

James A. Knauer, chapter 11 trustee ("Trustee") for Eastern Livestock Co., LLC, respectfully opposes First Bank's and Superior's June 22 motions for expedited hearing [Dkt. 1207, 1208]. The Trustee believes that the motions and objections addressing the Trustee's June 5, 2012 Report [Dkt. 1166] are best considered during the August 20 omnibus hearing and that no imperative reason exists for the Court to reconsider and rescind its prior scheduling notice [Dkt. 1188]. For the following reasons, the motions to expedite the hearing should be denied:

1. The Trustee's Report detailed the Hoover Hull investigation and the Trustee's professional judgment concerning various claims the Trustee could assert against Fifth Third on behalf of the Debtor's estate. The Trustee also reported his intention shortly to propose and recommend a chapter 11 plan and accompanying disclosure statements. It is unlikely that the Trustee's proposal will be finalized and filed in sufficient time for all interested parties to review it, ask questions of the Trustee, and present written responses prior to the July 9, 16 and 19 dates suggested in First Bank's motion.

2. The Court's scheduling notice set an objection date regarding the Trustee's Report for three days prior to the August 20 hearing. Additionally, S.D. Ind. Local Rule 7-1, incorporated in S.D. Ind. Bankr. Local Rule B-9014-1, sets a default deadline of July 5 to

respond to Superior's motion to strike the Trustee's Report and July 9 as the default date for responses to Superior's most recent supplemental objection [Dkt. 1206]. Given the number of parties interested in these issues, it is important that they all have ample time to consider the arguments and, if appropriate, prepare written submissions.

3. The main prejudice that First Bank claims it will suffer if the hearing is not expedited is a time crunch to attempt to pursue claims derivatively and a concern that creditors may be compelled to accept the Trustee's proposed plan because of limited time available to remedy First Bank's and Superior's complaints about the Report in advance of a December 28, 2012 statute of limitations deadline. Motion ¶¶2-4 [Dkt. 1207]. The Trustee does not agree that First Bank or creditors are truly hampered whether the hearing occurs in July or in August. In part, this is demonstrated by the fact that First Bank has already launched its own claims against Fifth Third Bank in Ohio alleging all manner of state law RICO and common law claims.

4. Rescheduling the current hearing would also be an issue. Due to other cases and commitments that cannot be moved, the Trustee cannot participate in a hearing in this Court on July 9. Additionally, Kevin Toner cannot participate in a hearing on July 16 due to an oral argument in Ripley Circuit Court, and Kevin Toner and Terry Hall cannot participate on July 19 due to a previously scheduled mediation in Indianapolis and meetings in Minneapolis.

5. At a minimum, any hearing on the motions to strike requires the participation of Jim Knauer, the author of the Report at issue. Moreover, because the Report and the proposed plan concern so many creditors and other parties, sufficient notice and an opportunity to participate in the hearing is very important. Those needs are best served by leaving the current hearing schedule unchanged.

WHEREFORE the Trustee respectfully requests the Court to deny the motions to expedite a hearing on the Trustee's Report and to take up these issues as currently scheduled during the August 20, 2012 omnibus hearing.

Respectfully submitted,

FAEGRE BAKER DANIELS, LLP

By: /s/ Kevin M. Toner

Kevin Toner (#11343-49)
Harmony Mappes (# 27237-49)
300 N. Meridian Street, Suite 2700
Indianapolis, IN 46204-1782
Telephone: (317) 237-0300
Facsimile: (317) 237-1000
kevin.toner@faegrebd.com
harmony.mappes@faegrebd.com

Counsel for James A. Knauer, Chapter 11 Trustee

CERTIFICATE OF SERVICE

I hereby certify that on June 25, 2012, a copy of the foregoing pleading was filed electronically. Notice of this filing will be sent to the following parties through the Court's Electronic Case Filing System. Parties may access this filing through the Court's system.

David L. Abt
davidabt@mwt.net

C. R. Bowles, Jr
cbowles@bgdlegal.com

John Hunt Lovell
john@lovel-law.net

Mark A. Robinson
mrobinson@vhlaw.com

Jeffrey R. Erler
jeffe@bellnunnally.com

Edward M King
tking@fbtlaw.com

Randall D. LaTour
rdlatour@vorys.com

John R. Carr, III
jrciii@acs-law.com

Bret S. Clement
bclement@acs-law.com

Daniel J. Donnellon
ddonnellon@ficlaw.com

Stephen A. Weigand
sweigand@ficlaw.com

John Frederick Massouh
john.massouh@sprouselaw.com

John W. Ames
james@bgdlegal.com

Robert Hughes Foree
robertforee@bellsouth.net

Kim Martin Lewis
kim.lewis@dinslaw.com

Jeremy S Rogers
Jeremy.Rogers@dinslaw.com

Ivana B. Shallcross
ishallcross@bgdlegal.com

Deborah Caruso
dcaruso@daleeke.com

Meredith R. Thomas
mthomas@daleeke.com

William Robert Meyer, II
rmeyer@stites.com

Allen Morris
amorris@stites.com

Charles R. Wharton
Charles.R.Warton@usdoj.gov

James Bryan Johnston
bjtexas59@hotmail.com

James T. Young
james@rubin-levin.net

David L. LeBas
dlebas@nahanhowell.com

Judy Hamilton Morse
judy.morse@crowedunlevy.com

John M. Thompson
john.thompson@crowedunlevy.com

Jessica E. Yates
jyates@swlaw.com

Laura Day Delcotto
ldelcotto@dlgfir.com

Ross A. Plourde
ross.plourde@mcafeetaft.com

Todd J. Johnston
tjohnston@mcjllp.com

Karen L. Lobring
lobring@msn.com

Elliott D. Levin
edl@rubin-levin.net

Sean T. White
swhite@hooverhull.com

Michael W. McClain
mike@kentuckytrial.com

James Edwin McGhee
mcghee@derbycitylaw.com

Jerald I. Ancel
jancel@taftlaw.com

David Alan Domina
dad@dominalaw.com

Jill Zengler Julian
Jill.Julian@usdoj.gov

Michael Wayne Oyler
moyler@rwsvlaw.com

James E. Rossow
jim@rubin-levin.net

Steven A. Brehm
sbrehm@bgdlegal.com

James M. Carr
james.carr@faegrebd.com

Shawna M. Eikenberry
shawna.eikenberry@faegrebd.com

James A. Knauer
jak@kgirlaw.com

Christie A. Moore
cmoore@bgdlegal.com

Jeffrey E. Ramsey
jramsey@hopperblackwell.com

Joseph H. Rogers
jrogers@millerdollarhide.com

Andrew D. Stosberg
astosberg@lloydmc.com

Andrea L. Wasson
andreawassonatty@gmail.com

John Huffaker
john.huffaker@sprouselaw.com

Kelly Greene McConnell
lisahughes@givenspursley.com

Walter Scott Newbern
wsnewbern@msn.com

Timothy T. Pridmore
tpridmore@mcjllp.com

Sandra D. Freeburger
sfreeburger@dsf-atty.com

John M. Rogers
johnr@rubin-levin.net

Robert H. Foree
robertforee@bellsouth.net

William E Smith
wsmith@k-glaw.com

Thomas C Scherer
tscherer@binghammchale.com

Jeffrey J. Graham
jgraham@taftlaw.com

Kent A Britt
kabritt@vorys.com

Jeffrey L Hunter
jeff.hunter@usdoj.gov

Jason W. Cottrell
jwc@stuartlaw.com

James B. Lind
jblind@vorys.com

Anthony G. Raluy
traluy@fbhlaw.net

Jack S. Dawson
jdawson@millerdollarhide.com

Terry E. Hall
terry.hall@faegrebd.com

Erick P. Knoblock
eknoblock@daleeke.com

Shiv Ghuman O'Neill
shiv.oneill@faegrebd.com

Eric C. Redman
ksmith@redmanludwig.com

James E. Smith
jsmith@smithakins.com

Kevin M. Toner
kevin.toner@faegrebd.com

Christopher M. Trapp
ctrapp@rubin-levin.net

Matthew J. Ochs
matt.ochs@moyewwhite.com

T. Kent Barber
kbarber@dlgfir.com

Kirk Crutcher
kcrutcher@mcs-law.com

Theodore A Konstantinopoulos
ndohbky@jbandr.com

Lisa Koch Bryant
courtmail@fbhlaw.net

John David Hoover
jdhoover@hooverhull.com

Sarah Stites Fanzini
sfanzini@hopperblackwell.com

Susan K. Roberts
skr@stuartlaw.com

David A. Laird
david.laird@moyewwhite.com

Trevor L. Earl
tearl@rwsvlaw.com

Joshua N. Stine
jnstine@vorys.com

Amelia Martin Adams
aadams@dlgfir.com

Robert A. Bell
rabell@vorys.com

Melissa S. Giberson
msgiberson@vorys.com

Christopher E. Baker
cbaker@hkllawfirm.com

Dustin R. DeNeal
dustin.deneal@faegrebd.com

Jay Jaffe
jay.jaffe@faegrebd.com

Harmony A. Mappes
harmony.mappes@faegrebd.com

Wendy W. Ponader
wendy.ponader@faegrebd.com

Joe T. Roberts
jratty@windstream.net

Robert K. Stanley
robert.stanley@faegrebd.com

U.S. Trustee
ustpreion10.in.ecf@usdoj.gov

I further certify that on June 25, 2012, a copy of the foregoing pleading was served via electronic mail transmission on the following:

Ashley S. Rusher
asr@blancolaw.com

Darla J. Gabbitas
darla.gabbitas@moyewhite.com

/s/ Kevin M. Toner